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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,310	08/20/2003	Lance R. Peterson	0112300-1048	6023
29159	7590	04/03/2009	EXAMINER	
K&L Gates LLP P.O. Box 1135 CHICAGO, IL 60690			MCCULLOCH JR, WILLIAM H	
			ART UNIT	PAPER NUMBER
			3714	
			NOTIFICATION DATE	DELIVERY MODE
			04/03/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

# Office Action Summary

**Application No.**

10/644,310

**Applicant(s)**

PETERSON ET AL.

**Examiner**

William H. McCulloch

**Art Unit**

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-93 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-93 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/23/2009 has been entered. Claims 1-93 are pending in the application, with claims 1-2, 4-7, 9-10, 13, 15-16, 22-31, 34-45, 47-49, 51-56, 58-59, 62, 67-72, 74, 77-83, 85, 87-89, and 91-92 currently amended.

### ***Claim Interpretations***

2. Claims 1, 28, 40, 48, 56, 74, and 85 recite in pertinent part displaying the "designated number of spins" or "designated number of free spins." The Examiner interprets these recitations to mean that the *spins* (of the reels) themselves are displayed, not the *number of spins*.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 6,203,430 to Walker et al. (hereinafter Walker) in view of U.S. 6,491,584 to Graham et al. (hereinafter Graham).

Regarding claims 1, 2, 28, 29, 41, 42, and 74, Walker teaches a gaming device and method comprising: at least one display device (e.g., "conventional electronic display" in at least 6:21-34 and video display 336 in at least 5:42-50); at least one input device (e.g., starting controller 350; see 6:32-33); at least one processor (e.g., processor 302; see 5:63-65); and at least one memory device which stores a plurality of instructions (e.g., data storage device 304; see at least 5:64-6:8), which when executed by the at least one processor, cause the at least one processor to operate with the at least one display device and the at least one input device to:

- Display a plurality of reels, the plurality of reels including a plurality of symbols (see Fig. 3B), said symbols including at least one first prize symbol associated with a first physical prize, at least one second prize symbol associated with a second different physical prize (e.g., Bells, Oranges, and Bars displayed as "tracked symbols" associated with respective physical prizes of 300, 250, and 200 credits, respectively; see Fig. 3B, 4A, and 8).
- Display a designated number of initial spins of the reels (see at least 3:33-51).  
In Walker, the player may designate the number of spins by controlling the wager of a number of credits and actuating the starting controller 350 (see at least 6:9-20 and 8:34-49).

- Display the initial spins of the reels after a wager by a player until none of the designated number of initial spins remain (e.g., the game provides the player a number of spins under the player's direction).
- Accumulate any first prize symbols which occur on the reels in each of said displayed initial spins and accumulate any second prize symbols which occur on the reels in each of said displayed initial spins (see at least 6:49-7:5).
- Cause the first physical prize to be awarded to the player if the accumulated number of first prize symbols reaches a designated number of first prize symbols necessary to be accumulated to win the associated first physical prize (see at least 8:15-23), wherein the designated number of first prize symbols is greater than the number of first prize symbols which can possibly be accumulated in the displayed initial spins of the reels (e.g., in the case where an initial designated number of spins equals two, each spin providing a maximum of nine symbols, the player is unable to win a minimum prize requiring 75 orange symbols; see at least Fig. 8).
- Cause the second physical prize to be awarded to the player if the accumulated number of second prize symbols reaches a designated number of second prize symbols necessary to be accumulated to win the associated second physical prize (see at least 8:15-23), wherein the designated number of second prize symbols is greater than the number of second prize symbols which can possibly be accumulated in the displayed initial spins of the reels (e.g., in the case where an initial designated number of spins equals two,

each spin providing a maximum of nine symbols, the player is unable to win a minimum prize requiring 50 bar symbols; see at least Fig. 8).

Walker teaches the invention substantially as described above, but lacks in explicitly disclosing at least one re-trigger symbol or predetermined symbol combination (that causes re-triggering). In a related disclosure, Graham teaches a gaming machine with a re-trigger bonus, in which predetermined events, such as one or more triggering symbols appearing in an outcome of the game, initiate free or bonus games (see at least abstract, 1:29-2:26). It would have been obvious to modify the invention taught by Walker to include the re-trigger features of Graham in order to retain and attract potential gaming customers, as is favorably taught by Graham (see at least 1:12-26). It is noted that Graham explicitly teaches that the inventive bonus feature is "applicable in respect of any type of base games played on a gaming machine" and "particularly applicable in respect of spinning reel-type base games" (2:16-20). This teaching suggests further motivation to apply the concepts of Graham to the spinning reel type base game of Walker.

The combination of Walker and Graham teaches the invention substantially as described above, but lacks in explicitly teaching wherein the initial designated number of spins is greater than one. Regardless, It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Walker and Graham such that more than one initial play of the game may be played by the player in order to advantageously allow the player to play multiple games while only making funds available at the beginning of his play session.

Claims 40, 56, 61 are directed toward similar subject matter to the above claims, and additionally include a primary and secondary game, wherein at least one triggering event associated with the primary game initiates the secondary game. Walker teaches such at least by an initial game(s) ending and additional games beginning. Further, Graham teaches initiation of a number of bonus games upon a triggering event (see at least 1:29-2:26), which also meets the above limitation of primary (base) and secondary (bonus) games.

Claims 22, 34, 43, 48, 49, 67, 77 and 85 are directed toward similar subject matter to the above claims, except that an initial designated number of free spins of the reels are provided, with the opportunity to re-trigger at least one spin of the reels if the re-trigger symbol or a predetermined symbol combination occurs on the reels. Graham teaches such feature in at least 1:29-45 and 2:21-25. It is noted that Graham allows for triggering events to happen during a previously-triggered series of games, not solely for the base game.

Regarding claims 3, 4, and 57 Walker teaches at least one pay line associated with reels and further teaches that the processor accumulates any prize symbols that occur on any of the paylines in each spin of the reels (see at least Fig. 3B, 4:45-51, 6:21-33, and claim 17).

Regarding claims 5, 7, and 30, Walker teaches that the accumulated number of prize symbols is reset when no spins remain or after a plurality of primary games (see at least 3:21-51 and 7:6-19).

Regarding claims 6 and 31, Walker teaches that the initial designated number of spins is obtained in a primary game activated upon a wager by the player (see at least 6:9-15).

Regarding claim 8, Walker teaches a prize symbol that includes an image that represents the physical prize (see at least Figs. 4A and 8, and descriptions thereof).

Regarding claims 9-10, Walker teaches that the initial designated number of spins is predetermined at least because the player may designate the number of games he wishes to play. Walker lacks in explicitly teaching that the designated number of initial spins is randomly determined. Regardless, such modification would have been an obvious matter of design choice, well within the capabilities of one of ordinary skill in the art at the time of invention.

Regarding claims 11-12, Walker teaches that the designated number of prize symbols is predetermined or random (see at least Fig. 8 and descriptions thereof).

Regarding claims 13 and 14, Walker teaches a plurality of different physical prizes, wherein the processor is operable to provide one of said physical prizes to the player when the accumulated number of prize symbols reaches the designated number of prize symbols necessary to win the physical prize; and further teaches that at least two of the physical prizes have different values (see at least Fig. 8 and descriptions thereof).

Regarding claims 15 and 16, Walker teaches a probability of being selected by the processor associated with each of the physical prizes, wherein the processor is



operable to select and provide one of the physical prizes to the player based on said probabilities (see at least 7:36-8:2).

Regarding claims 17-21 and 62, Walker teaches a prize symbol display operable to indicate the number of accumulated prize symbols (Fig. 3b, element 360), further including a plurality of prize symbols indicators (Fig. 3b, element 360), further including an illumination device associated with the prize symbols indicators (Fig. 3A, video display 336), wherein the prize symbol display includes an integer which represents the accumulated number of prize symbols (Fig. 3b, element 360), and wherein the integer increments by at least one for each prize symbol which occurs on the reels (see at least 3:21-51 and 5:43-51).

Claims 23-26, 35-39, 44-47, 51-55, 58-60, 68-71, 78-82, and 87-91 are directed toward determining that 1) the initial number of spins, 2) prize symbols necessary to win a prize, 3) number of prize symbols, and 4) odds of obtaining a re-trigger event, is based at least in part on a wager made by the player. Each of these determinations is described at least by the citations of Walker herein because each determination must be established when the player initiates a wagering session. Teachings of Walker further dictate that the initiation is a result of the player making a wager. Therefore, Walker teaches each of the above claims. With regard to claim 24, a first game of Walker requires a first number of symbols to be accumulated. If during that first game the player accumulates at least one symbol, the second (subsequent) game would require a different number of symbols to be accumulated in order to win the prize. With regard to claim 26, the combination of Walker and Graham teaches that the symbols

appearing on the reels are associated with a probability of winning, at least because both games are under the direction of a random number generator. Furthermore, Graham states that, "trigger frequency may decrease for at least some of the series of free games by changing the length or layout of the reel strips. This allows both the return to player percentage for different series of free games and/or the likelihood of getting a trigger condition to be adjusted as necessary or required" (3:59-64). Thus, if the player has paid for the current game/spin via a wager amount, he has a greater likelihood of achieving the free game symbol combination than if he was currently playing a free (no wager) game.

Regarding claims 27, 63, and 64, Walker further teaches the processor is operable to enable the player to select the physical prize from a plurality of prizes (see at least 11:61-12:14).

Regarding claims 32, 33, 50, 75, 76, 86, Walker describes a first physical prize that is of a higher value than the second physical prize, and further describes a higher probability of obtaining the second physical prize than the first physical prize (see at least Fig. 8).

Regarding claims 65-66, Walker teaches awarding the physical prize to the player includes generating a prize code and further includes placing the prize code on at least one of: a receipt, a ticket, a printing medium and a recording medium (see at least 9:6-13).

Regarding claims 72, 73, 83, 84, 92, and 93, Walker teaches that the above described system and method are controller through a data network (see at least 5:1-25

and 8:24-32). The Internet is simply a group of networks in communication with one another. Therefore, Walker suggests controlling the method and system over the Internet.

### ***Response to Arguments***

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. McCulloch whose telephone number is (571) 272-2818. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. H. M./  
Examiner, Art Unit 3714  
3/29/2009

/Peter D. Vo/  
Supervisory Patent Examiner, Art Unit 3714